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STATE FOR AF/EPS - HASTINGS, AF/W AND EB/TPP/MTA
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USDOC FOR 4510/OA/PMICHELINI/AROBINSON-MORGAN/KBOYD
USDOC FOR 3131/CS/ANESA/OIO/DHARRIS/GLITMAN/MSTAUNTON

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TAGS: ETRD EAGR ECON PGOV EAID EINV IV MY SG
SUBJECT: SENEGAL LIFTS SAFEGUARD MEASURE FOR WAEMU OIL IMPORTS, BUT DECLARES INCREASE OF REFERENCE VALUE

¶1. (U) SUMMARY: In response to ongoing controversy surrounding Senegal's application of a safeguard measure in 2005, President Wade signed a revised law on July 21, 2006, applying a 25 percent provisional safeguard tax on refined and palm oils originating outside the West African Economic and Monetary Union (WAEMU) member states. Under current law, there is no safeguard measure applied to imports of other vegetable oils. Importers have accepted the new measure since most of their oils are imported from Cote d'Ivoire although they complain of unnecessary complications at the port as well as a governmental increase in their reference values for palm oil. The Government of Senegal (GOS) is encouraging domestic oil producers to modernize their facilities while benefiting from the protectionist measures. END SUMMARY.

THE NEW LAW

¶2. (U) President Wade signed a law on July 21, 2006, applying a 25 percent provisional safeguard tax on refined and palm oils originating outside the West African Economic and Monetary Union (WAEMU) member states. The new law, No. 2006-23, annuls previous law No. 2005-30 that applied the safeguard measure to all imports of refined, palm and vegetable oils for six years. The new law is now in compliance with World Trade Organization (WTO) and with the Uruguay Round Agreement on Safeguards.

¶3. (U) Law 2006-23, titled "Law on the Application of the Safeguard Measure on Imported Refined Palm Oils" applies a 25 percent safeguard tax only to refined palm oil imports from non-WAEMU countries, not for industrial use, for a provisional period of 200 days. As required by the Agreement on Safeguards, it also calls for an investigation during the provisional period of whether imported palm oils pose a serious threat to Senegal's domestic oil production. Senegal's Ministry of Commerce (MOC) already provided a preliminary determination of imports' negative impact and will conduct a more detailed investigation in the future.

DUTIABLE REFERENCE VALUE INCREASED BY 67 PERCENT
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¶4. (U) The safeguard tax is the second measure, the GOS has recently taken to protect the domestic cooking oil industry. The first protectionist measure this year took effect on June 12, when the President issued a decree increasing the reference value for imported refined palm oils from 300 CFA francs (CFAF) (USD .37) to 500 CFAF (USD .93) per kilogram (1 kilo equals roughly 1 liter). Oil importing members of "Union Nationale des Commercants et Industriels du Senegal" (UNACOIS) expressed outrage at the increase because GOS did not consult with them in regard to their costs and

failed to provide the transition period mandated by Senegalese law. In spite of disagreeing with the decree, the transition period would have allowed them to take the increased costs into account prior to placing orders and borrowing money from banks to finance international transactions.

¶5. (U) Consequently, there are currently 334 containers holding approximately 6,680 tons of imported refined palm oil blocked at the port. Importers are unable to come up with the money needed to pay the increased taxes, storage fees and port penalties. Although the containers arrived prior to the presidential decree raising the reference value, importers, without having been informed of the decree, did not declare the goods until after June 12. The Senegalese Customs Bureau is demanding that taxes be paid on the new reference value before the containers are released. UNACOIS leaders are trying to meet with Prime Minister Macky Sall to discuss the situation.

¶6. (U) UNACOIS Secretary General Serigne Ndongo told EconOff that the GOS established the new reference value because SONACOS had recently re-valued its imports of non-refined palm oils at 500 CFAF/kg. The government action is based on the logic that refined oils cannot be worth less than non-refined oils. Both private brokerage firms and importers are speaking out against the administration's value declaration, reasoning that it is the importer's responsibility to declare the value of goods.

COTE D'IVOIRE VS. MALAYSIA: PREVENTING TRANSSHIPMENT
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¶7. (U) All Senegalese oil imports must be accompanied by a certificate of origin. If the Senegalese Customs Bureau of Origins and Values questions the authenticity of the certificate, the importer is obliged to pay a consignment tax equal to the safeguard measure (25 percent) until the certificate of origin is verified to be imported from a WAEMU country, at which point the consignment tax

will be reimbursed. To date, the Customs Bureau has not formally requested WAEMU to conduct any investigations on the origins of the imported palm oils, although they are generally wary of transshipped oils from Malaysia, and tend to give importers an unnecessarily difficult time in releasing their imported oils in a timely manner.

¶8. (U) Total taxes on imports of refined palm oils now amount to 65 percent of the reference value. Taxes include: the 25 percent safeguard tax, a 20 percent common external tariff, an 18 percent value added tax, and a 2 percent processed goods tax. Importers fear liquidation of their industry if the reference value is not reduced. This would undoubtedly have a negative impact on the roughly 600 people employed in the oil import industry.

¶9. (U) As reported to the United Nations Commodity Trade Statistics Database, Senegalese importers have declared greater palm oil imports from Cote d'Ivoire than Cote d'Ivoire has declared in exports to Senegal for the same period. Coincidentally, Senegal's Customs Bureau recorded less in volume and value of palm oil imports from Malaysia than Malaysia declared in exports to Senegal. Although transshipment has yet to be officially proved, customs officials will be watching for increased imports of palm oil from Cote d'Ivoire during the upcoming year as an indication of Malaysian transshipments and will be paying close attention to certificates of origin.

¶10. (U) In 2005, Senegal recorded 23,960 metric tons of refined palm oils from Cote d'Ivoire valued at almost USD 14 million and 31,721 tons of refined palm oils from Malaysia valued at USD 17.3 million. Information on exports declared in 2005 by Malaysia and Cote d'Ivoire is not available.

FOOD SAFETY NORMS: WHO IS THE STATE PROTECTING?
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¶11. (U) The GOS has also begun to apply more strictly Codex Alimentarius or Food Safety Norms to cooking oil imports since it reportedly passed a law on October 12, 2005, requiring that all foreign oil producers meet the international norms. Commerce Minister Mamadou Diop Decroix, referring to the new law, stated that

3,900 tons of cooking oils have already been refused entry to the Senegalese market due to quality issues. Customs is required to take a sample of cooking oil from each shipment for laboratory analysis to verify the quality. (COMMENT: Whereas some importers view the claims as a non-tariff barrier, an indiscriminate application would be a welcome improvement to Senegal's food and consumer safety standards. END COMMENT.)

¶12. (U) Diop Decroix has also encouraged all protected oil companies benefiting from the safeguard measure to invest in modernization and restructuring in order to become more competitive. Earlier in 2006, Advens, the private investment group that bought SONACOS from the GOS, signed a five-year agreement with the GOS to restructure and to modernize SONACOS facilities, including 4 billion CFAF, or USD 7.9 million, to address a layoff of approximately 600 workers.

COMMENT

¶13. (SBU) The new law while WTO compliant is unfavorable to importers because of the increased reference value. We believe the GOS is protecting SONACOS but hurting consumers by subjecting them to higher prices for a basic good such as oil. This type of government interference is worrisome as it is unpredictable what GOS would do in the future in an effort to "protect" SONACOS and the domestic oil industry.

¶14. (SBU) An interesting aspect of this debate is that in spite of its parliamentary majority, the Government lost two key votes in the National Assembly before the law ultimately passed. SONACOS employees and Senegalese who want to protect the peanut oil industry remain opposed to all measures that permit foreign cooking oil to enter the country. END COMMENT.

JACOBS